

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GENERAL ELECTRIC COMPANY
Plaintiff

v.

SEALED UNIT PARTS CO., INC.
Defendant.

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Civil Action No. _____

JURY DEMANDED

COMPLAINT

Plaintiff General Electric Company, by its attorneys Sutton McAughan Deaver PLLC, files this Original Complaint against Defendant Sealed Unit Parts Co., Inc. for copyright infringement, and seeks actual damages, exemplary damages, and injunctive relief, as set forth below.

I. PARTIES

1. General Electric Company (“GE”) is a corporation organized under the law of the State of New York, with a principal place of business at 3135 Easton Turnpike, Fairfield, Connecticut 06825.

2. Sealed Unit Parts Co., Inc. (“Supco”), upon information and belief, is a corporation organized under the laws of the State of New York with a principal place of business at 2230 Landmark Place, Allenwood, New Jersey 08720.

II. JURISDICTION AND VENUE

3. This is an action for copyright infringement under the Copyright Laws of the United States, 17 U.S.C. §§ 101, *et seq.*

4. Subject-matter jurisdiction over GE's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338.

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c).

III. GENERAL ALLEGATIONS

A. GE's Appliances Business

6. One of GE's businesses is directed to consumer home appliances and is known in GE and around the world as GE Appliances. Since the turn of the twentieth century GE Appliances has been an industry leader in innovation, from creating the first GE Monitor Top refrigerator in 1927 bringing food preservation to average Americans, to developing new "smart" appliances for modern networked home control.

7. As part of its research and development for its products, GE creates custom firmware to control the operation of its increasingly sophisticated appliances, including its line of refrigerators. The refrigerator firmware is written in the C programming language, compiled to an S-Record format, and is used to program a microcontroller integrated circuit on the refrigerator main control board.

8. GE originally created version 1 of the current refrigerator control firmware in 2000, and sold the first refrigerators equipped with the original firmware in January 2001. Since that time, the firmware has been continuously improved and revised, with the addition of new features and the improvement of existing features.

9. Each of the versions and major revisions of firmware is the exclusive property of GE ("GE Copyrighted Works"). GE has duly registered and/or has applied for registration for each of these copyrightable works with the U.S. Copyright Office. Copies of the certificates of copyright registration for relevant GE firmware are attached hereto as Exhibit A.

10. In addition to providing refrigerator main control boards with each new GE refrigerator, GE sells replacement refrigerator main control boards to consumers through GE Appliance service providers and authorized distributors.

11. The model number of the current GE refrigerator main control board is WR55X10942.

B. Supco's Business

12. According to information published on its Internet site (supco.com), SUPCO is "a leading manufacturer and master distributor of high quality innovative products designed for the Heating, Ventilating, Air Conditioning, Refrigeration and Appliance Parts Industries."

13. According to information published on its Internet site, "SUPCO is headquartered in Allenwood, NJ and operates additional facilities in Wall Township, NJ and Ningbo, China."

14. According to information published on its Internet site, a "worldwide network of sales representative[s] and distributors ensures that [Supco] meet[s] the ever changing needs of the domestic and international industries [Supco] serve[s]."

15. A search of Supco's Internet site for Supco distributors located within 100 miles of this Court's ZIP code (75670) produces a list of 45 Supco distributor names, addresses, telephone numbers and, when available, Internet addresses.

16. Upon information and belief, Supco does not design consumer appliances or refrigerators.

17. Upon information and belief, Supco does not sell consumer appliances or refrigerators.

C. Supco's Infringing Product

18. Upon information and belief, Supco sells replacement parts for consumer appliances and refrigerators that are designed and sold by others, including GE.

19. Upon information and belief, Supco sells a part number CB10942 that is described as "Main Control Board" and that Supco advertises as a replacement for WR55X10942, the GE refrigerator main control board.

20. Upon information and belief, the Supco Main Board CB10942 has been sold by Supco into this judicial district, including but not limited to Appliance Parts Co., 4015 W. Marshall Ave., Longview, TX 75604.

21. Data extracted from the microcontroller on a Supco Main Board CB10942 has been found to be 99.97% identical to comparable data loaded on the microcontroller on GE's Refrigeration Main Firmware EFX1121p024_63k.

IV. FIRST COUNT—COPYRIGHT INFRINGEMENT

22. GE incorporates by reference the preceding paragraphs of this complaint.

23. GE is the exclusive owner of all right, title, and interest in and to GE's Copyrighted Works. GE has duly registered and/or has applied for registration with the U.S. Copyright Office for the copyrightable works related to GE's refrigerator main control board WR55X10942.

24. Firmware extracted from the microcontroller on a sample of Supco's Main Control Board CB10942 is a 99.97% identical copy of GE's Refrigeration Main Firmware EFX1121p024_63k, registration number TX 7-924-115 (Exhibit A), as loaded on the microcontroller of GE's refrigerator main control board WR55X10942.

25. Supco's copying and sale of GE copyrighted works was deliberate and willful.

26. GE has sustained, and will continue to sustain, substantial injuries, loss, and damage to its exclusive rights under copyright in GE's copyrighted works, and further has sustained and will sustain damages from the loss of value of its exclusive rights by reason of the conduct of Supco.

REQUEST FOR RELIEF

WHEREFORE, GE prays for relief from the Court as follows:

- A. That Supco and all agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, or through, or under authority from Supco, or in concert or participation with them, and each of them, be preliminarily and permanently enjoined from disclosing, using, copying, reproducing, distributing, or preparing derivative works of or otherwise misappropriating GE's copyrighted works;
- B. That GE be awarded damages from Supco in an amount to be determined by applicable law, including punitive damages based on Supco's willful and unlawful conduct;
- C. That GE be awarded its attorneys' fees and costs, such fees and costs to be paid by Supco; and
- D. That GE be awarded such other and further relief as the Court deems just and proper.

DATED: February 3, 2015

Respectfully submitted,

By: /s/ Robert McAughan

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